IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CIVIL REVISION NO.1399 OF 1991
DECIDED ON : 05.12.2007

Dadri Education Socieoty, Charkhi Dadri, through its President Ram Kishan Gupta.

.....Petitioner.

Versus

Mangat Ram son of Pehlad Ram Mahajan, resident of Basai, at present Gandi Market, Charkhi Dadri.

.....Respondent.

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CORAM: HON'BLE MR.JUSTICE SHAM SUNDER.

Present: Sh.O.P.Goyal Sr. Advocate
with Ms.Pawanpreet Kaur, Advocate
for the petitioner.

None for the respondent.

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JUDGMENT:

This revision petition is directed against the judgment dated 10.01.1991 rendered by the Appellate Authority (Additional District Judge), Bhiwani vide which it dismissed the appeal against the judgment dated 25.09.1989 of Rent Controller, Charkhi Dadri.

2. The facts, in brief, are that the landlord/petitioner inducted the respondent, as tenant, in the demised premises as fully detailed in the application at a monthly rent of Rs.154/-, being the fair rent fixed on 14.02.1981. The ejectment of the respondent/tenant was sought, on the grounds, that he had been in arrears of rent from 01.03.1986 to 31.08.1986, amounting to Rs.924/- as also of house tax from 01.04.1984 to 31.08.1986, amounting to Rs.429.90 paise, that he had changed the user of the demised premises, without the permission of the landlord. In the alternative, the landlord/petitioner prayed that the fair rent of the demised premises, be fixed at Rs.700/- per month + house tax as the price level had gone sky-high, since February, 1981.

Accordingly a combined petition under Sections 13 & 4 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, was filed.

3. The respondent put in appearance, and filed written statement, wherein, the relationship of landlord and tenant was admitted. It was asserted by the tenant, that he had paid the arrears of rent + house tax as demanded by the landlord. It was admitted by him that the fair rent in respect of the demised premises was fixed at Rs.154/- + house tax on 14.02.1981. It was further asserted that a shop, in the vicinity of the shop in-question, could only fetch a monthly rental of Rs.50/- or Rs.60/-. The remaining averments, were denied being wrong.

4. In the replication, filed by the landlord/petitioner, he reiterated all the averments, contained in the petition, and repudiated those, contained in the written statement.

5. On the pleadings of the parties, the following issues, were struck by the Rent controller:-

1. Whether the respondent is liable for the eviction from the premises in dispute, as alleged? OPP
2. Whether there are grounds for fixation of fair rent, if so at what rate? OPP
3. Whether the applicant has no locus-standi to file the application? OPR
4. Whether the application is bad form is joinder of cause of action? OPR
5. Relief.

6. The parties led documentary, as well as oral evidence, in support of their case. After hearing the counsel for the parties, and, on going through the record of the case, the Rent Controller fixed the fair rent at Rs.164.50 paise per month + house tax from the date of filing the application, vide judgment dated 25.09.1989. However, issues no.1 and 4, were not pressed by the landlord.

7. Feeling aggrieved, against the judgment dated 25.09.1989 of the Rent Controller, an appeal was preferred, which was dismissed by the Appellate Authority.

8. Still dissatisfied with the judgments of the Courts below, the instant revision petition, was filed by the landlord-petitioner.

9. Notice of the petition, was given to the respondent, on whose behalf the counsel put in appearance initially, but lateron at the time of arguments, none appeared on behalf of the respondent.

10. I have heard the learned Counsel for the landlord/petitioner, and have gone through the record of the case, carefully.

11. Learned Counsel for the petitioner, contended that the fair rent was required to be fixed by the courts below, according to the formula depicted in Section 4(2) of the Haryana Urban (Control of Rent and Eviction) Act, 1973, and in-consonance with the principle of law laid down in **Yoginder Mohan Versus Krishan Lal 2000(1) PLR 788.** He further contended that the calculation of fair rent, made by the courts below, is not completely correct. The basic rent in this case, which was fixed with the agreement of the parties, in the year 1981, was Rs.154/- per month. The application, out of the decision whereof, the instant revision petition, has arisen, was filed in the year 1986. The price index of the year 1981 was Rs.278.4 and of the year 1985 i.e. one year prior to the filing of the application, was Rs.353.3. Increase in price index came to be Rs.74.9 (Rs.75/- round figure) . 25% of this increase came to be Rs.19/- (round figure). The percentage of increase came to be 10.50 paise (19 x 154/278). The fair rent thus came to be Rs.164.50 (154+10.50 p) + house tax.

12. In my considered opinion, the Courts below, adopted the correct formula, as depicted in Section 4(2) of the Haryana Urban (Control of Rent and Eviction) Act, 1973 and fixed fair rent, in consonance with the principle of law, laid down in **Yoginder Mohan's Case (supra)**. The contention of the learned Counsel for the revision petitioner, does not appear to be correct. The judgments of the Courts below do not suffer from any illegality or infirmity and, therefore, no interference is called for therewith.

13. For the reasons recorded hereinbefore, the revision-petition is dismissed with no order as to costs.

December 05, 2007 **(Sham Sundar)**
mamta m **Judge**